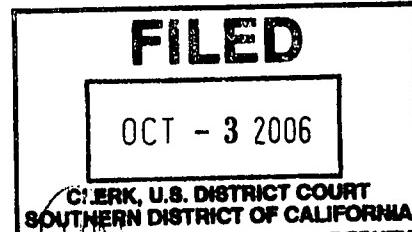


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11 Attorneys for Plaintiff  
12 UNITED STATES OF AMERICA

13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA, ) Magistrate Case No. 06MG1734

16 Plaintiff, )

17 v. )

18 MELESIO CHAVIRA-ACOSTA (1), )

19 Defendant. )

20 **STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**

21 **(Pre-Indictment Fast-Track Program)**

22 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
23 OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and  
24 William A. Hall, Jr., Assistant United States Attorney, and defendant  
25 MELESIO CHAVIRA-ACOSTA, by and through and with the advice and consent of defense  
26 counsel, Stephen D. Demik, Esq., Federal Defenders of San Diego, Inc., that:

27 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing  
28 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
1 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
2 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
3 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)  
4 and (v)(II).

5 //

6 //

1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **October 20, 2006**.

6           4. The material witnesses, Joaquin Alvarez-Urvina, German Mejia-Carpio, and  
7 Homero Alvarez-Marin, in this case:

8               a. Are aliens with no lawful right to enter or remain in the United States;  
9               b. Entered or attempted to enter the United States illegally on or about  
10 September 18, 2006;

11              c. Were found in a vehicle driven by co-defendant Noel Martinez-Santiago near  
12 State Route 905 at Cactus Road, east of the Otay Mesa, California Port of Entry and that defendant  
13 knew or acted in reckless disregard of the fact that they were aliens with no lawful right to enter or  
14 remain in the United States;

15              d. Were paying between \$1,500 and \$2,000 to others to be brought into the  
16 United States illegally and/or transported illegally to their destination therein; and,

17              e. May be released and remanded immediately to the Department of Homeland  
18 Security for return to their country of origin.

19           5. After the material witnesses are ordered released by the Court pursuant to this  
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23               a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b. The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
3 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
4 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
5 waives the right to confront and cross-examine the material witness(es) in this case.

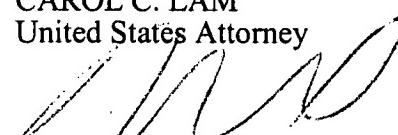
6 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
8 further that defendant has discussed the terms of this stipulation and joint motion with defense  
9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
11 immediate release and remand of the above-named material witness(es) to the Department of  
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 CAROL C. LAM  
16 United States Attorney



17 Dated: 7/27/06.  
18 WILLIAM A. HALL, JR.  
19 Assistant United States Attorney



20 Dated: 9/22/06.  
21 STEPHEN D. DEMIK  
22 Defense Counsel for Melesio Chavira-Acosta



23 Dated: 9/22/06.  
24 MELESIO CHAVIRA-ACOSTA  
25 Defendant

## ORDER

Upon joint application and motion of the parties, and for good cause shown,  
**THE STIPULATION** is admitted into evidence, and,  
**IT IS ORDERED** that the above-named material witness(es) be released and remanded  
forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 10/3/06

~~United States Magistrate Judge~~

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

vs.

Defendant(s)

CRIMINAL NO. *06CR2144-LAB  
06M61734*

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge,

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

DATED: *10/4/06*

*Joaquin Alvarez - Arreaga*  
ANTHONY J. BATTAGLIA

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

*DUSM*

OR

W. SAMUEL HAMRICK, JR. Clerk

by

*J. Madueno (Y. Madueno)*  
Deputy Clerk